

Order

Michigan Supreme Court
Lansing, Michigan

June 15, 2006

Clifford W. Taylor,
Chief Justice

ADM File No. 2006-02

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

Amendment of
Rule 3.602 of the
Michigan Court Rules

On order of the Court, the following amendment of Rule 3.602 of the Michigan Court Rules is adopted, effective immediately.

[The present language is amended as indicated below.]

Rule 3.602 Arbitration

(A)-(H)[Unchanged.]

(I) Award; Confirmation by Court. An arbitration award filed with the clerk of the court designated in the agreement or statute within one year after the award was rendered may be confirmed by the court, unless it is vacated, corrected, or modified, or a decision is postponed, as provided in this rule.

(J) Vacating Award.

(1) On application of a party, the court shall vacate an award if:

(a) the award was procured by corruption, fraud, or other undue means;

(b) there was evident partiality by an arbitrator appointed as a neutral, corruption of an arbitrator, or misconduct prejudicing a party's rights;

(c) the arbitrator exceeded his or her powers; or

(d) the arbitrator refused to postpone the hearing on a showing of sufficient cause, refused to hear evidence material to the controversy, or otherwise conducted the hearing to prejudice substantially a party's rights.

The fact that the relief could not or would not be granted by a court of law or equity is not ground for vacating or refusing to confirm the award.

- (2) An application to vacate an award must be made within 21 days after delivery of a copy of the award to the applicant, except that if it is predicated on corruption, fraud, or other undue means, it must be made within 21 days after the grounds are known or should have been known.
- (3) In vacating the award, the court may order a rehearing before a new arbitrator chosen as provided in the agreement, or, if there is no such provision, by the court. If the award is vacated on grounds stated in subrule (J)(1)(c) or (d), the court may order a rehearing before the arbitrator who made the award. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.
- (4) If the application to vacate is denied and there is no motion to modify or correct the award pending, the court shall confirm the award.

(K) Modification or Correction of Award.

- (1) On application made within 21 days after delivery of a copy of the award to the applicant, the court shall modify or correct the award if:
 - (a) there is an evident miscalculation of figures or an evident mistake in the description of a person, a thing, or property referred to in the award;
 - (b) the arbitrator has awarded on a matter not submitted to the arbitrator, and the award may be corrected without affecting the merits of the decision on the issues submitted; or
 - (c) the award is imperfect in a matter of form, not affecting the merits of the controversy.
- (2) If the application is granted, the court shall modify and correct the award to effect its intent and shall confirm the award as modified and corrected. Otherwise, the court shall confirm the award as made.
- (3) An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

(L) Judgment. The court shall render judgment giving effect to the award as corrected, confirmed, or modified. The judgment has the same force and effect, and may be enforced in the same manner, as other judgments.

- (M) Costs. The costs of the proceedings may be taxed as in civil actions, and, if provision for the fees and expenses of the arbitrator has not been made in the award, the court may allow compensation for the arbitrator's services as it deems just. The arbitrator's compensation is a taxable cost in the action.
- (N) Appeals. Appeals may be taken as from order or judgments in other civil actions.

Staff Comment: Subrules (I)-(N), which were deleted in error in the order dated February 23, 2006, are reinstated.

The staff comment is not an authoritative construction by the Court.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 15, 2006

Corbin R. Davis
Clerk